

S.N. 10/067,658  
Heather N. Bean et al.  
Atty Dkt 10018569-1

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## REMARKS

Claims 1-17 were pending in the application prior to this response.

Claims 8-12 and 17 have been canceled herein. Claims 1-7 and 13-16 remain in the application unchanged. New claims 18-22 have been added.

Accordingly, after entry of the amendment presented herein, claims 1-7, 13-16 and 18-22 will be pending in the application. Reexamination and reconsideration are requested.

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## I. Objection to the Title

On page 2 of the Office action, the Examiner objects to the title, indicating that it is not descriptive. In response, applicants have amended the title to now read as follows:

### VIDEO CAMERA WITH VARIABLE IMAGE CAPTURE RATE AND RELATED METHODOLOGY

Accordingly, the Examiner's objection is believed to be addressed.

## II. Rejection of Claims 1, 8, 10, 13 and 17 Under 35 U.S.C. §102(e)

Claims 1, 8, 10, 13 and 17 stand rejected under 35 U.S.C. §102(e) as being anticipated by Lee et al. (U.S. 6,614,477). Reconsideration of the Examiner's rejection is requested.

### Claim 1

Claim 1 recites the following:

A camera user interface assembly comprising:  
a video capture selector having at least a first operating state in which said camera captures image data at a first rate and a second user selectable operating state in which said camera captures image data at a second rate different from said first rate;  
said selector being switchable between said first and second states during continuous image data capture.

Claim 1 recites that the selector is switchable during continuous image

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data capture. Although Lee et al. discloses a camera in which the frame rate can be selected, Lee et al. does not disclose or suggest that the frame rate can be selected *during image capture* as required by claim 1.

The Examiner states the following regarding Lee et al. on page 3 of the Office action:

The selector (55) is switchable between the first and second states during continuous image capture and the frame rate selection signal (SEL) may be produced from a user-controlled external switch....

Applicants respectfully disagree with the Examiner's stated position that Lee et al. discloses that the selector (55) is switchable "during continuous image capture". The Examiner points to col. 5, lines 36-44 of Lee et al. in support of this position. This portion of Lee et al. is reproduced below:

The mode signal generator 61 receives the vertical driving signal VD and the frame rate selection signal SEL and generates a mode signal corresponding to the commanded frame rate. The frame rate selection signal SEL preferably commands a rate of 7.5, 10, 12, 15 or 20 frames per second for NTSC, or 6.5, 8, 10, 12.5 or 16 frames per second for PAL. The frame rate selection signal SEL may be produced, for example, from a user-controlled external switch or from a microprocessor.

This portion of Lee et al. does not disclose or suggest that the frame rate can be changed *while image data is being captured*.

For the reasons advanced above, applicants respectfully assert that claim 1 is not anticipated by Lee et al.

### Claims 8 and 10

Claims 8 and 10 have been canceled.

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### Claim 13

Claim 13 recites "streaming at least said first image data set, said second image data set, and streaming said third image data set and said fourth image data set". As discussed above, with respect to the rejection of claim 1, Lee et al. does not disclose or suggest that the frame rate can be changed during image capture. Accordingly, Lee et al. does not disclose streaming image data acquired at different frame rates as required by claim 13. Claim 13, thus, is not anticipated by Lee et al.

### Claim 17

Claim 17 has been canceled.

### **III. Rejection of Claims 2-5 Under 35 U.S.C. §103(a)**

Claims 2-5 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lee et al. (U.S. 6,614,477) in view of Ohkawara et al. (U.S. 6,630,950). Reconsideration of the Examiner's rejection is requested.

Claims 2-5 are allowable at least as depending from allowable base claim 1.

### **IV. Rejection of Claims 6, 7 and 11 Under 35 U.S.C. §103(a)**

Claims 6, 7 and 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lee et al. (U.S. 6,614,477) in view of Niikawa (U.S. 6,710,809). Reconsideration of the Examiner's rejection is requested.

Claims 6 and 7 are allowable at least as depending from allowable base

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claim 1. Claim 11 has been canceled.

### V. Rejection of Claims 9, 12, 14 and 15 Under 35 U.S.C. §103(a)

Claims 9, 12, 14 and 15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lee et al. (U.S. 6,614,477) in view of Matsumoto et al. (U.S. 6,795,642). Reconsideration of the Examiner's rejection is requested.

#### Claim 9

Claim 9 has been canceled.

#### Claim 12

Claim 12 has been canceled.

#### Claim 14

Claim 14 recites "determining a frame rate for future image capture based upon a user input provided while the camera is simultaneously capturing image data". As discussed above, with respect to the rejection of claim 1, Lee et al. does not disclose or suggest that the frame rate can be changed during image capture. Matsumoto et al. does nothing to remedy this inadequacy. Accordingly, a *prima facie* case of obviousness has not been established with respect to claim 14.

#### Claim 15

Claim 15 recites "means for selectively varying said frame rate while capturing said frames". As discussed above, with respect to the rejection of

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claim 1, Lee et al. does not disclose or suggest that the frame rate can be changed during image capture. Again, Matsumoto et al. does nothing to remedy this inadequacy. Accordingly, a *prima facie* case of obviousness has not been established with respect to claim 15.

### VI. Rejection of Claim 16 Under 35 U.S.C. §103(a)

Claim 16 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Lee et al. (U.S. 6,614,477) in view of Matsumoto et al. (U.S. 6,795,642) and further in view of Niikawa (U.S. 6,710,809). Reconsideration of the Examiner's rejection is requested.

Claim 16 is allowable at least as depending from allowable base claim 15.

### VII. New Claims 18-22

New claims 18-22 are fully supported by the originally-filed application with reference, for example, to drawing Fig. 3 and the written specification at page 10, line 33 through page 11, line 6. No new matter has been added.

New independent claim 18 recites, for example, that the same switch used to initiate image data acquisition is also used to vary the frame rate at which data is acquired. Clearly, neither Lee et al., nor any of the other references of record disclose this arrangement. New claims 19-22 are dependent upon claim 18.

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In view of the above, all of the claims are now believed to be in condition for allowance.

Respectfully submitted,  
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